

1 Matthew Franklin Jaksa (CA State Bar No. 248072)
2 HOLME ROBERTS & OWEN LLP
3 560 Mission Street, 25th Floor
4 San Francisco, CA 94105-2994
5 Telephone: (415) 268-2000
6 Facsimile: (415) 268-1999
7 Email: matt.jaksa@hro.com

E-filing

ORIGIN
FILE

SEP 20 2007

RECEIVED
NORTHERN DISTRICT COURT
COURT OF APPEALS
OAKLAND

8 Attorneys for Plaintiffs,
9 SONY BMG MUSIC ENTERTAINMENT;
10 ARISTA RECORDS LLC; UMG RECORDINGS,
11 INC.; and ELEKTRA ENTERTAINMENT
12 GROUP INC.

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 SONY BMG MUSIC ENTERTAINMENT, a
16 Delaware general partnership; ARISTA
17 RECORDS LLC, a Delaware limited liability
18 company; UMG RECORDINGS, INC., a
19 Delaware corporation; and ELEKTRA
20 ENTERTAINMENT GROUP INC., a Delaware
21 corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CRB

C07-04859

EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
7 third party Internet Service Provider ("ISP") to determine the true identity of Defendant John Doe
8 ("Defendant"), who is being sued for direct copyright infringement.

9 2. As alleged in the complaint, Defendant, without authorization, used an online media
10 distribution system to download Plaintiffs' copyrighted works and/or distribute copyrighted works to
11 the public. Although Plaintiffs do not know the true name of Defendant, Plaintiffs have identified
12 Defendant by a unique Internet Protocol ("IP") address assigned to Defendant on the date and time
13 of Defendant's infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
15 identify Defendant's true name, current (and permanent) address and telephone number, e-mail
16 address, and Media Access Control ("MAC") address. Without this information, Plaintiffs cannot
17 identify Defendant or pursue their lawsuit to protect their copyrighted works from repeated
18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
20 Rule 26(f) conference where there are no known defendants with whom to confer.

21 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
22 foregoing requested discovery immediately.

23 Dated: September 20, 2007

HOLME ROBERTS & OWEN LLP

24 By: _____
25

MATTHEW FRANKLIN JAKSA

26 Attorney for Plaintiffs

27 SONY BMG MUSIC ENTERTAINMENT; ARISTA
RECORDS LLC; UMG RECORDINGS, INC.; and
ELEKTRA ENTERTAINMENT GROUP INC.